

Abstrak

Liberalisasi perdagangan jasa internasional melalui *General Agreement on Trade in Services* (GATS) telah mendorong perubahan signifikan dalam kebijakan investasi di sektor kesehatan, termasuk di Indonesia. Namun terdapat suatu ketidaksesuaian yang berdampak pada munculnya ketidakpastian hukum, berpotensi menimbulkan sengketa perdagangan jasa internasional, serta menghambat arus investasi yang seharusnya dapat meningkatkan kualitas dan akses layanan kesehatan di Indonesia. Hasil penelitian bahwa implementasi Prinsip *Market Access* sebagaimana tertuang dalam SoC Indonesia terjadi inkonsistensi melalui Peraturan Presiden Nomor 10 Tahun 2021 dan perubahannya, Peraturan Presiden Nomor 49 Tahun, khususnya terkait pembatasan akses pasar dan persyaratan perizinan operasional rumah sakit. Selain itu, kebijakan penempatan tenaga medis asing melalui Peraturan Menteri Kesehatan No. 14 Tahun 2022 dan Undang-Undang No. 17 Tahun 2023 tentang Kesehatan mengandung unsur diskriminatif yang belum memenuhi prinsip *National Treatment*. Kebijakan ini memberikan potensi menimbulkan sengketa perdagangan jasa internasional, serta menghambat arus investasi yang seharusnya dapat meningkatkan kualitas dan akses layanan kesehatan di Indonesia. Penelitian ini menggunakan metode pendekatan yuridis normatif melalui pengumpulan bahan-bahan hukum berupa studi kepustakaan terhadap peraturan perundang-undangan, instrumen hukum internasional, dan sumber tersier. Semua bahan hukum yang sudah tersistematis dilakukan analisis interpretatif, yang dalam hal ini dilakukan secara sistematis, dan teleologis guna menilai keselarasan antara norma internasional dan implementasi hukum nasional. Penelitian ini bertujuan untuk menganalisis kesesuaian kebijakan hukum nasional terkait investasi rumah sakit dengan prinsip *Market Access* dan *National Treatment* sebagaimana tertuang dalam *Schedule of Specific Commitments* (SoC) Indonesia dalam GATS.

Kata Kunci: GATS, *Market Access*, *National Treatment*, SoC, Rumah Sakit Indonesia.

Abstract

The liberalization of international trade in services through the General Agreement on Trade in Services (GATS) has significantly influenced investment policies in the health sector, including in Indonesia. However, discrepancies have emerged that give rise to legal uncertainty, potential international trade in services disputes, and hinder the flow of investment that should otherwise enhance the quality and accessibility of healthcare services in the country. This study finds that the implementation of the Market Access principle, as outlined in Indonesia's Schedule of Specific Commitments (SoC), is inconsistent with national regulations particularly Presidential Regulation No. 10 of 2021 and its amendment, Presidential Regulation No. 49 of 2021 which impose market access restrictions and licensing requirements on hospital operations. Additionally, the placement of foreign medical personnel under Minister of Health Regulation No. 14 of 2022 and Law No. 17 of 2023 on Health contains discriminatory elements that fall short of fulfilling the National Treatment principle. These policy inconsistencies may lead to international service trade disputes and deter foreign investment, which is critical for improving healthcare service delivery in Indonesia. This research adopts a normative juridical approach by collecting legal materials through literature studies involving national legislation, international legal instruments, and tertiary sources. The analysis employs interpretative methods in a systematic and teleological manner to assess the alignment between international norms and national legal implementation. The aim of this study is to analyze the conformity of Indonesia's national legal framework on hospital investment with the principles of Market Access and National Treatment as stipulated in its GATS Schedule of Specific Commitments.

Keywords: *GATS, Market Access, National Treatment, SoC, Indonesian Hospitals.*